



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 21, 1998

Ms. Lisa Aguilar
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR98-3201

Dear Ms. Aguilar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120961.

The City of Corpus Christi (the "city") received a request for "a copy of the bid tabulations" in connection with bidding for the Oso Beach Golf Course Concession. You seek to withhold the requested information under section 552.104 of the Government Code.

Section 552.104 protects from required public disclosure "information that, if released, would give advantage to a competitor or bidder." The purpose of section 552.104 is to protect the government's interests when it is involved in commercial transactions. Section 552.104 is generally invoked to except information submitted to a governmental body as part of a bid or similar proposal. *See, e.g.,* Open Records Decision No. 463 (1987). In these situations, the exception protects the government's interests in obtaining the most favorable proposal terms possible by denying access to information about proposals prior to the award of a contract. Governmental bodies may withhold this type of information while the governmental officials are in the process of interpreting the proposals and the competitors are free to furnish additional information. *See* Open Records Decision No. 170 (1977). Section 552.104, however, generally does not except bids or proposals from disclosure once the bidding is over and the contract is in effect, or where no contract is awarded. Open Records Decision Nos. 306 (1982); 201 (1978); 184 (1978).

In this case, you say that "the requested information contains summaries of each bid," that the city "is still negotiating with the recommended bidder to prepare a final contract," and that "the contract is scheduled to be presented to the Corpus Christi City Council for its review and approval on October 20, 1998." Based on your representations, we conclude that

you may withhold the requested information under section 552.104 until the contract in question has been awarded or it is determined that no contract will be awarded.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 120961

Enclosures: Submitted documents

cc: Mr. Butch and Ms. Jeannine Antrim
A & A Concessions
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(w/o enclosures)